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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 23rd January, 1973/Magha 3, 1894 (Saka)

THE LACCADIVE, MINICOY AND AMINDIVI ISLANDS (PROTECTION OF SCHEDULED TRIBES) AMENDMENT REGULATION, 1973

No. 1 OF 1973

Promulgated by the President in the Twenty-third Year of the Republic of India.

A Regulation to amend the Laccadive, Minicoy and Amindivi Islands (Protection of Scheduled Tribes) Regulation, 1964.

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by him:—

Short title and commencement.

1. (*1*) This Regulation may be called the Laccadive, Minicoy and Amindivi Islands (Protection of Scheduled Tribes) Amendment Regulation, 1973.

(*2*) It shall come into force at once.

Amendment of section 2.

2. In section 2 of the Laccadive, Minicoy and Amindivi Islands (Protection of Scheduled Tribes) Regulation, 1964 (hereinafter referred to as the principal Regulation), clause (*b*) shall be re-lettered as clause (*d*)

9 of 1964.

and before clause (*d*) as so re-lettered, the following clauses shall be inserted, namely:—

'(b) "bank" means a banking company as defined in the Banking Regulation Act, 1949, the State Bank of India constituted under the State Bank of India Act, 1955, a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959, or a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 and includes any other financial institution which the Administrator may, by notification in the Official Gazette, declare to be a bank for the purposes of this Regulation; 10 of 1949. 23 of 1955. 38 of 1959. 5 of 1970.

(*c*) "co-operative society" means a society registered, or deemed to be registered, under any law relating to co-operative societies for the time being in force in the Union territory of the Laccadive, Minicoy and Amindivi Islands;'.

Amendment of section 3.

3. In section 3 of the principal Regulation,—

(*a*) in sub-section (*1*), for the words "any land to any person other than any such member", the following shall be substituted, namely:—

"any land:

Provided that no such sanction shall be necessary in the case of any transfer of land to the Government, a bank, a co-operative society or any member of the Scheduled Tribes";

(*b*) to sub-section (2), the following proviso shall be added, namely:—

"Provided that nothing in this sub-section shall apply to attachment or sale in execution of any such decree or order in relation to a debt owing to the Government, a bank, a co-operative society or any member of the Scheduled Tribes.".

Amendment of section 4.

4. In section 4 of the principal Regulation,—

(*a*) the words "other than a member of the Scheduled Tribes" shall be omitted;

(*b*) the following proviso shall be added at the end, namely:—

"Provided that no such sanction shall be necessary in the case of acquisition of any such interest by the Government, a bank, a co-operative society or any member of the Scheduled Tribes.".

Insertion of new section 4A.

5. After section 4 of the principal Regulation, the following section shall be inserted, namely:—

Special provision for sale in execution in certain cases.

"4A. (*1*) Every sale of land in execution of a decree or order referred to in the proviso to sub-section (2) of section 3 shall be by public auction.

(2) No person other than a member of the Scheduled Tribes shall be entitled to bid at such public auction.

(3) The civil or revenue court executing such decree or order shall determine a reserve price for the land in accordance with such rules as may be made by the Administrator in this behalf.

(4) The land shall be sold to the highest bidder only if the price offered by him therefor is not less than the reserve price.

(5) If at the public auction no offer of price equal to, or more than, the reserve price is made, the land shall be purchased by the Government at the reserve price.".

Amendment of section 7.

6. Section 7 of the principal Regulation shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

"(2) In particular and without prejudice to the generality of the foregoing provisions, such rules may provide for the matters to be taken into account, and the procedure to be followed by a civil or revenue court, in determining the reserve price.".

V. V. GIRI,
President.

THE LACCADIVE, MINICOY AND AMINDIVI ISLANDS MONEY-LENDERS REGULATION, 1973

NO. 2 OF 1973

Promulgated by the President in the Twenty-third Year of the Republic of India

A Regulation to regulate and control the business of money-lenders in the Union territory of the Laccadive, Minicoy and Amindivi Islands.

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by him:—

Short title, extent and commencement.

1. (*1*) This Regulation may be called the Laccadive, Minicoy and Amindivi Islands Money-lenders Regulation, 1973.

(*2*) It extends to the Whole of the Union territory.

(*3*) It shall come into force on such date as the Administrator may, by notification, appoint.

Definitions

2. In this Regulation, unless the context otherwise requires,—

(*a*) "Administrator" means the Administrator of the Union territory appointed by the President under article 239 of the Constitution;

(*b*) "appellate authority" means any officer or authority appointed by the Administrator to exercise the powers of an appellate authority under this Regulation;

(c) "bank" means a banking company as defined in section 5 of the Banking Regulation Act, 1949, and includes the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934, the State Bank of India constituted under the State Bank of India Act, 1955, any subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959, a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, any other banking institution notified by the Central Government under section 51 of the Banking Regulation Act, 1949, and any other banking or financial institution notified by the Central Government as a bank for the purposes of this Regulation; 10 of 1949. 2 of 1934. 23 of 1955. 38 of 1959. 5 of 1970.

(*d*) "co-operative society" means a society registered under the Laccadive, Minicoy and Amindivi Islands Co-operative Societies Regulation, 1960; 5 of 1960.

(*e*) "Inspector" means an Inspector appointed under section 11;

(*f*) "interest" includes the return to be made over and above the actual amount lent or the cash value of what was lent, whether the same is charged or sought to be recovered, specifically by way of interest, profit or otherwise, but does not include any sum charged by a lender in accordance with the provisions of this Regulation or any other law for the time being in force, for, or on account of, costs, charges or expenses;

(*g*) "licence" means a money-lender's licence granted under this Regulation;

(*h*) "licensing authority" means any officer or authority appointed by the Administrator to perform the functions of the licensing authority under this Regulation;

(*i*) "loan" means an advance whether of money or in kind, and includes,—

(*1*) an advance against the security of the usufructs of coconut trees,

(*2*) any transaction which the Court finds in substance to amount to an advance,

but does not include,—

(*i*) a deposit of money or other property in a Post Office Savings Bank or in a bank or with a company as defined in the Companies Act, 1956, or with a co-operative society;

1 of 1956.

(*ii*) an advance made by a bank or a co-operative society or an advance made from a provident fund to which the Provident Funds Act, 1925, applies;

19 of 1925.

(*iii*) an advance made by Government or by any person authorised by Government to make advances on its behalf, or by any local authority;

(*iv*) an advance made by any authority specified by the Administrator by notification;

(*v*) an advance made on the basis of a negotiable instrument as defined in the Negotiable Instruments Act, 1881, exceeding three thousand rupees;

26 of 1881.

(*vi*) an advance made to its members by any *nidhi* or permanent fund registered under any law in force in India; or

(*vii*) an advance made under any Chit Fund Scheme;

(*j*) a person shall be deemed to "molest" another person if he—

(*1*) obstructs or uses violence to, or intimidates, such other person, or

(*2*) persistently follows such other person from place to place or interferes with any property owned or used by him or deprives him of, or hinders him in the use of, any such property, or

(*3*) loiters at or near a house or other place where such other person resides, or works, or carries on business, or happens to be, or

(*4*) does any act calculated to annoy or intimidate the members of the family of such other person, or

(*5*) moves or acts in a manner which causes or is calculated to cause alarm or danger to the person or property of such other person;

(*k*) "money-lender" means a person whose main or subsidiary occupation is the business of advancing and realising loans, but does not include a bank or co-operative society or the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956. 31 of 1956.

Explanation.—Where a person who carries on the business of advancing and realising loans in the Union territory is resident outside the Union territory, the agent of such person resident in the Union territory shall be deemed to be the money-lender in respect of that business for the purposes of this Regulation;

(*l*) "notification" means a notification published in the Laccadives Gazette;

(*m*) "prescribed" means prescribed by rules made under this Regulation;

(*n*) "principal", in relation to a loan, means the actual amount lent or the cash value of what was lent to the debtor;

(*o*) "Union territory" means the Union territory of the Laccadive, Minicoy and Amindivi Islands;

(*p*) "year" means the financial year.

Money-lender to obtain licence.

3. (*1*) No person shall, after two months from the commencement of this Regulation, carry on business as a money-lender in the Union territory, except under and in accordance with the conditions of a licence:

Provided that nothing in this section shall be deemed to prohibit a person, who has, within the aforesaid period of two months applied for a licence, to carry on such business until the licence is granted or refused.

(*2*) Where a money-lender has more than one shop or place of business in the Union territory, he shall obtain a separate licence in respect of each such shop or place of business.

(*3*) (*a*) Where a money-lender is a registered firm, the licence shall be obtained in the firm's name.

(*b*) Where a money-lender is an undivided family, the licence shall be obtained in the name of the manager, or the *karanavan,* or the *yajaman,* as the case may be, who shall be described as such in the licence.

(*c*) Where a money-lender is any other association of individuals, not required to be registered under the Companies Act, 1956, a separate licence shall be obtained by each such individual in his name describing himself as a member of the association: 1 of 1956.

Provided that nothing contained in this sub-section shall affect the operation of section 69 of the Indian Partnership Act, 1932. 9 of 1932.

Grant and refusal of licences.

4. (*1*) Every application for a money-lender's licence shall be in writing and shall be made to the licensing authority:

Provided that a person under the age of eighteen years shall be eligible to apply for a licence only through a guardian:

Provided further that if any person acting as a guardian on behalf of a minor applies for and obtains a licence under this Regulation, such guardian shall be subject to all the provisions of this Regulation as if the licence has been granted to himself.

(*2*) Every licence shall be granted in such form and subject to such conditions as may be prescribed including conditions as to the payment of licence fees not exceeding one hundred rupees.

(*3*) The licensing authority may, by order in writing, refuse to grant a licence if such authority is satisfied—

(*a*) that the applicant has not complied with the provisions of this Regulation or the rules made thereunder in respect of an application for the grant of a licence; or

(*b*) that the applicant has made wilful default in complying with or knowingly acted in contravention of any requirement of this Regulation; or

(*c*) that the applicant has—

(*i*) knowingly participated in or connived at any fraud or dishonesty in the conduct of or in connection with his business as a money-lender, or

(*ii*) been found guilty of an offence under Chapter XVII or Chapter XVIII of the Indian Penal Code, or

45 of 1860.

(*iii*) been found guilty of an offence under section 12 or section 14 on two or more occasions; or

(*d*) that the application is made within six months of the cancellation of a licence.

(*4*) Any person aggrieved by an order of the licensing authority under sub-section (*3*) may, within one month from the date of communication of such order to him, appeal to the appellate authority.

(*5*) Every licence granted under this Regulation shall, subject to the provisions of sub-section (*7*), expire on the last day of the year in which it was granted.

(*6*) A licence granted under sub-section (*2*) may be renewed from year to year and the provisions of sub-sections (*1*) to (*5*) shall apply in relation to the renewal of a licence as they apply in relation to the grant of a licence.

(*7*) If orders refusing to renew a licence are not communicated to a money-lender by the licensing authority before the expiry of his current licence, the money-lender shall, notwithstanding such expiry, be deemed to have a valid licence till orders are received by him on his application for renewal.

(*8*) Nothing in this section shall be deemed to disentitle a money-lender whose licence has expired or has not been renewed, from taking steps to recover any loan advanced during the period when the licence was in force.

Change of shop or place of business by money lender.

5. No money-lender shall change his shop or place of business without previous notice to the licensing authority and without having the address of the new shop or place of business duly endorsed on his licence.

Money-lenders to exhibit their names, etc., over shops.

6. Every money-lender shall always keep exhibited over his shop or place of business his name, the licence number and the word "money-lender" in such languages as may be prescribed.

Value of receipts in kind to be given credit.

7. If under the terms of the agreement relating to a loan, any money-lender appropriates or accepts the usufructs of coconut trees towards payment of the principal or interest, if any, of the loan, he shall give credit for an amount equal to the market value of such usufructs obtaining at the time of such appropriation or acceptance.

Interest and charges allowed to money-lenders.

8. (*1*) No money-lender shall charge or recover interest on any loan, at a rate exceeding nine per cent. per annum simple interest where the loan is a secured loan or at a rate exceeding twelve per cent. per annum simple interest where the loan is not a secured loan:

Provided that a money-lender shall be entitled to charge a minimum of fifty paise as interest on any one loan.

(*2*) A money-lender may demand and take from the debtor such charges and in such cases as may be prescribed.

(*3*) A money-lender shall not demand or take from the debtor any interest, profit or other sum whatsoever in excess of that payable under this section.

Power to deposit in Court money due on loan.

9. (*1*) Where a money-lender refuses to accept the whole or any portion of the money or other property due in respect of his loan, the debtor may deposit the said money or property into the Court having jurisdiction to entertain a suit for the recovery of such loan and apply to the Court to record full or part satisfaction of the loan, as the case may be.

(*2*) where any such application is made, the Court shall, after due inquiry, pass orders recording full or part-satisfaction of the loan, as the case may be.

5 of 1908.

(*3*) The procedure laid down in the Code of Civil Procedure, 1908, for the trial of suits shall, as far as may be, apply to applications under this section.

(*4*) An appeal shall lie from an order passed by a Court under sub-section (*2*), as if such an order relates to the execution, discharge or satisfaction of a decree within the meaning of section 47 of the Code of Civil Procedure, 1908. 5 of 1908.

Money-lender to keep books, give receipts, etc.

10. (*1*) Every money-lender shall—

(*a*) regularly record and maintain or cause to be recorded and maintained, an account showing for each debtor separately—

(*i*) the date of the loan, the amount of the principal and the rate of interest charged thereon, the nature of the security taken, if any, and the other terms and conditions of the loan,

(*ii*) the amount of every payment received by the money-lender in respect of the loan, and the date of such payment, and

(*iii*) the amount credited as being the market value of the usufructs of coconut trees appropriated or accepted towards payment of the principal or interest of the loan and the date of receipt of such usufructs

(*b*) give to the debtor or his agent a receipt duly signed and, if necessary, stamped, for—

(*i*) the amount paid by him, or

(*ii*) the amount equal to the market value of the usufructs of coconut trees appropriated or accepted from him indicating the quantity of usufructs.

at the time of such payment or, as the case may be, at the time of such appropriation or acceptance;

(c) on requisition in writing made by the debtor furnish to him, or, if he so requires, to any person mentioned by him in that behalf in his requisition, a statement of account signed by himself or his agent, showing the particulars referred to in clause (*a*) and also the amount which remains outstanding on account of the principal and of interest, and charge such fee therefor as may be prescribed;

(*d*) submit such returns relating to the loans advanced by him to the Inspector concerned, in such form and at such times as may be prescribed.

(*2*) All records or entries made in the books, accounts and documents referred to in sub-section (*1*) shall be in such language as may be prescribed in respect of any area.

(*3*) A debtor to whom a statement of account has been furnished under clause (c) of sub-section (*1*) and who fails to object to the correctness of the account shall not by such failure alone be deemed to have admitted the correctness of the particulars entered in such statement.

(*4*) In the receipts to be given under clause (*b*) of sub-section (*1*) or in the statement of account to be furnished under clause (c) of that sub-section, the figures shall be entered only in the international form of Indian numerals.

(*5*) In any suit or proceeding relating to a loan, if the Court finds that a money-lender has not maintained an account as required by clause (*a*) of sub-section (*1*), he shall not be allowed his costs.

(*6*) If any money-lender fails to give the debtor or his agent a receipt as required by clause (*b*) of sub-section (*1*) or to furnish on a requisition made under clause (*c*) of that sub-section a statement of account within one month after such requisition has been made, he shall not be entitled to any interest for the period of his default.

(*7*) Notwithstanding any agreement between the parties or any law for the time being in force when a statement of account is furnished to a debtor under this section on any day during a month, the interest due shall be calculated as payable for the entire month irrespective of the fact that such statement is furnished on any such day.

Appointment and powers of Inspectors.

11. (*1*) The Administrator may, by notification, appoint one or more persons to be Inspectors for the purposes of this Regulation and specify in such notification the local limits of their jurisdiction.

(*2*) Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

(*3*)(*a*)(*i*) Any Magistrate may, on receiving a report from an Inspector that a person carries on business as a money-lender without a licence or that a money-lender carries on his business in contravention of the provisions of this Regulation or any of the conditions of a licence granted to him at any place within the jurisdiction of such Magistrate, issue a warrant, empowering the Inspector to enter such place with such assistants as he considers necessary and inspect the books, accounts, records, files, documents, safes, vaults and pledges in such place.

(*ii*) On receiving the warrant referred to in sub-clause (*i*), the Inspector may enter the place and inspect the books, accounts, records, files, documents, safes, vaults and pledges in such place at all reasonable times and may take to his office such books, accounts, records, files and documents, as he considers necessary, for further investigation:

Provided that if the Inspector removes from the place any books, accounts, records, files or documents, he shall give to the person in charge of the place, a receipt describing the books, accounts, records, files or documents so removed by him:

Provided further that the books, accounts, records, files or documents so removed shall, within twenty-four hours of such removal, be either returned to the person from whose custody they were removed, or, subject to the availability of transport, be produced in the Court of the Magistrate who issued the warrant and such Magistrate may return the books, accounts, records, files or documents or any of them to the person from whose custody they were removed by the Inspector, after taking from such person such security as the Magistrate considers necessary for the production of the books, accounts, records, files or documents when required whether by the Inspector or by the Court, or may pass such other orders as to their disposal as appear just and convenient to the Magistrate.

(*b*) An Inspector shall have authority to require any person whose testimony he may require regarding any loan or any money-lending business to attend before him or to produce or cause to be produced any document and to examine such person on oath.

(*4*) An Inspector may apply for assistance to the officer-in-charge of a police station and take police officers to accompany and assist him in the performance of his duties under this Regulation.

Money-lender advancing smaller amount of securing higher interest than that specified in the accounts, etc., to be punishable.

12. (*1*) Any money-lender whether licensed or not—

(*a*) who actually advances an amount less than the amount shown in his accounts or registers or other documents relating to the loan, or

(*b*) who takes or receives interest or any other charge at a rate higher than the rate shown in the accounts, registers or documents aforesaid or allowed under this Regulation,

shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both. accounts, etc., to be punishable.

(2) If a money-lender is convicted of an offence under sub-section (1), the Court convicting him may cancel his licence as a money-lender.

13. No Court shall take cognizance of an offence punishable under this Regulation or the rules made thereunder except on a complaint in writing made by any prescribed authority. Cognizance of offences.

14. Whoever molests or abets the molestation of any debtor for the recovery of any loan shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both. Penalty for molestation of debtor.

15. (1) The licensing authority may, at any time, during the term of any licence, cancel it by an order in writing— Power to cancel licences, etc.

(a) if the licensee carries on the business in contravention of any of the provisions of this Regulation or the rules made thereunder or of any of the conditions of the licence, or

(b) if any reason for which the licensing authority could have refused to grant the licence to the money-lender under sub-section (3) of section 4, is brought to the notice of that authority after the grant of the licence, or

(c) if the licensee is convicted of an offence under section 12 or section 14, or

(d) if the licensee maintains false accounts or is found to molest or abet the molestation of any debtor for the recovery of any loan.

(2) Before cancelling a licence under sub-section (1), the licensing authority shall give the licensee a notice in writing stating the grounds on which it is proposed to take action and requiring him to show cause against it within such time as may be specified in the notice.

(3) Any person aggrieved by an order of the licensing authority cancelling a licence may, within one month of the date of communication of such order to him, appeal to the appllate authority.

16. Every order of cancellation of a licence under this Regulation shall be notified in the Laccadives Gazette and also on the notice board of the office of the licensing authority. Publication of order of cancellation.

17. A person whose licence is cancelled under section 15 shall not be entitled to any compensation in respect of such cancellation or to the refund of any fee paid in respect of such licence. No compensation for cancellation of licence.

18. Whoever carries on business as a money-lender without a licence or otherwise than in conformity with the terms and conditions of a licence shall be punished with fine which may extend to one thousand rupees: Penalty for carrying on business without licence.

Provided that a person shall not be deemed to carry on business as a money-lender without a licence, if he had ceased to carry on such business but was taking steps to recover any loan advanced by him.

Penalties.

19. (*1*) Whoever contravenes any of the provisions of this Regulation or of any rule made thereunder or of any of the conditions of a licence granted or deemed to be granted thereunder or makes a claim or a statement which is false or which he does not believe it to be true shall, if no other penalty is elsewhere provided for in this Regulation for such contravention, be punished with fine which may extend to one thousand rupees.

Explanation.—The cancellation of a licence under section 15 shall not be deemed to be a penalty for the purposes of this sub-section.

(*2*) Where a contravention of any of the provisions of this Regulation or of any rule made thereunder of which a person is convicted consists of an omission to do a thing, the Magistrate may, when convicting the offender, direct him to do the thing before an appointed day and may on the failure of the offender to do the thing before the said day, pass an order, whether the offender appears in Court or not on that day, cancelling his licence.

Transfer of licence to heir.

20. (*1*) Where a licensee under this Regulation dies, any person claiming to be his legal representative may apply to the licensing authority for transferring the licence in his name.

(*2*) Every such application shall be in such form and shall contain such particulars as may be prescribed.

(3) The licensing authority may, if he is satisfied that the applicant is in fact the legal representative of the deceased and that he is otherwise eligible for the grant of a licence under this Regulation, transfer the licence in the name of the applicant after obtaining from the applicant a declaration in the prescribed form.

(4) Any licence transferred under sub-section (3) shall be deemed to have been granted to the applicant himself and shall be valid for the period for which it would have been valid if the licence had not been transferred and the provisions of this Regulation shall apply accordingly.

Jurisdiction to try offences.

21. No Court inferior to that of a Judicial Magistrate of the first class shall try any offence punishable under this Regulation.

Contracts not to be void on account of offence.

22. Where a money-lender is guilty of an offence punishable under this Regulation any contract made by him in relation to his business as a money-lender shall not be void by reason only of that offence nor shall he, by reason only of that offence, lose his right to the loan and the interest and other charges, if any, payable in respect thereof.

Power to make rules.

23. (*1*) The Administrator may make rules to carry out all or any of the purposes of this Regulation.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the form of, and the particulars to be contained in, an application for a licence under this Regulation;

(*b*) the form of a licence, and the conditions subject to which a licence may be granted;

(c) the form in which books, accounts, records, files and documents specified in this Regulation shall be recorded, maintained, kept or used;

(d) the procedure which shall be followed and the powers which may be exercised by the authorities exercising functions, holding inquiries and hearing appeals under this Regulation;

(e) any other matter which under this Regulation is required to be, or may be, prescribed.

V. V. GIRI,
President.

K. K. SUNDARAM,
Secy. to the Govt. of India.

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